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clude parties as to every question actually raised and decided, but every claim which properly belonged to subject of litigation which parties in exercise of reasonable diligence might have raised at time.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 364-6.]

4. Judgment (§ 650*)—Conclusiveness—Final Judgment.—A decree is final so as to conclude parties as to issues decided, where no further action is necessary except such as might be used to enforce the decree.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 183-6.]

Appeal from Circuit Court, Northampton County.

Suits by Clarence W. Holland against William G. Smith, and by the latter and others against the former, which were heard together. From a decree refusing to grant his petition, praying that certain moneys be paid over to him as a part of his homestead exemption, William G. Smith appeals. Affirmed.

J. Brooks Mapp, of Accomak, for appellant.

Stanley Scott, of Eastville, and *Jas. E. Heth*, of Norfolk, for appellees.

BERNARD-SMITH CO. et al. v. BERNARD.

March 13, 1919.

[98 S. E. 677.]

1. Appeal and Error (§ 843 (2)*)—Review—Matters Not Affecting Merits.—Where, under undisputed facts, defendants clearly failed to establish their defense so that plaintiff was entitled to recover in any event, defendant's criticisms of instructions given at plaintiff's request need not be considered.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 600-2.]

2 Corporations (§ 121 (5)*)—Misrepresentation in Procurement—Evidence.—In action on note drawn by corporation, indorsed by stockholders, and given to manager as part consideration for his stock, in which defendants set up misrepresentation and failure of consideration, a defense under Negotiable Instruments Law, § 28, evidence held insufficient to show that defendants were misled to their damage by statement made by manager at annual meeting as to resources and liabilities of corporation.

Error to Circuit Court of City of Lynchburg.

Proceedings by S. M. Bernard against the Bernard-Smith Com-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

pany and others. Judgment for plaintiff, and defendants bring error. Affirmed.

Harrison & Long, of Lynchburg, for plaintiffs in error.

Caskie & Caskie, of Lynchburg, and *S. W. Williams*, of Roanoke, for defendant in error.

SOUTH NORFOLK LAND CO. et al. v. TEBAULT et al.

March 13, 1919.

[98 S. E. 679.]

1. Corporations (§ 189 (½)*)—Action by Minority Stockholders—Nature of Action.—Minority stockholders' bill, against the corporation and majority stockholders, to enforce collection of debts due the corporation and charging management of corporation in the interest of the president, diversion of corporate funds, and refusal to hold regular and necessary meetings of stockholders and directors, is not an action for dissolution of a corporation, under Code 1904, § 1105a, par. 15, and is not demurrable for failure to state facts bringing action within such statute.

2. Corporations (§ 189 (10)*)—Rights of Minority Stockholders—Action—Receiver.—Where corporation has been successfully managed, big dividends have been paid, and the assets have greatly increased in value, the business of the corporation will not be placed in the hands of a receiver on application of minority stockholders, who have been deprived of participation in the management of the corporation, but court will retain jurisdiction of the case, with leave to minority stockholders to apply for relief, if necessary.

3. Corporations (§ 189 (14)*)—Action by Minority Stockholders—Costs.—Where minority stockholders' action against corporation and majority stockholders was made necessary by the misconduct of the president in refusing to permit minority stockholders to participate in the affairs of the corporation, the costs of the action were rightly awarded against president.

4. Costs (§ 237*)—Appeal—Reversal in Part.—In minority stockholders' action against corporation, where injunction stopping the company's business is dissolved on appeal, but jurisdiction of the case is retained by the court, so that minority stockholders can apply for relief, if necessary, the costs on appeal will be taxed against the corporation and paid out of its assets.

Appeal from Law and Chancery Court of City of Norfolk.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.